

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
ADMINISTRATIVE ADJUDICATION DIVISION

RE: APONIK, ALEXANDER F.
LOBSTER TRAP ALLOCATION CFL 000065

AAD NO.07-056/F&WA

FINAL ORDER OF DISMISSAL

On May 7, 2008 a Conditional Order of Dismissal was entered against Applicant Alexander F. Aponik. The Conditional Order had required Applicant to show good cause in writing why a Final Order of Dismissal should not be entered for his failure to file a written response as required by the Order Requiring Applicant's Response. Applicant was allowed until and including May 23, 2008 to file his response to the Conditional Order.

Applicant has not responded to the Conditional Order of Dismissal.

FINDINGS OF FACT:

A review of the AAD file reveals the following:

1. At Applicant's request at the status conference conducted on March 29, 2007, a control date of April 27, 2007 was assigned to allow the parties to pursue settlement negotiations.
2. The control date of April 27, 2007 passed without the matter being resolved and without a request for an extension of the control date.
3. On March 24, 2008 the Order Requiring Applicant's Response was entered. The Order required Applicant to file at the AAD by April 18, 2008 one of the following written responses: a request that the matter be assigned a hearing date; or the withdrawal of the request for hearing. The Order provided that if Applicant has not filed a response by April 18, 2008, then a Conditional Order of Dismissal would be entered against the Applicant for his failure to pursue his appeal.
4. Applicant did not file a response at the AAD as required by the Order Requiring Applicant's Response.
5. A Conditional Order of Dismissal was entered against the Applicant on May 7, 2008.
6. Pursuant to the Conditional Order of Dismissal, the Applicant had until and including May 23, 2008 to show good cause why a Final Order of Dismissal should not be entered for Applicant's failure to file a written response as required by the Order Requiring Applicant's Response.

7. Applicant has not responded to the Conditional Order of Dismissal.

CONCLUSIONS OF LAW:

Based upon the above Findings of Fact, I conclude the following as a matter of law:

1. Applicant Alexander F. Aponik has failed to show good cause why a Final Order of Dismissal should not be entered against him for his failure to file a written response as required by the Order Requiring Applicant's Response.
2. Applicant Alexander F. Aponik is deemed to have waived his right to an adjudicatory hearing on the Lobster Trap Allocation determined by the Division of Fish and Wildlife.

Wherefore, it is hereby

ORDERED

1. Applicant's request for hearing on the Lobster Trap Allocation is herewith DISMISSED.

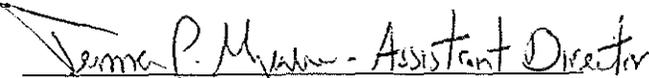
Entered as an Administrative Order this 5th day of June, 2008 and herewith

recommended to the Director or his designee for issuance as a Final Agency Order.



Mary F. McMahon
Hearing Officer
Department of Environmental Management
Administrative Adjudication Division
235 Promenade Street, Third Floor
Providence, RI 02908
(401) 222-1357

Entered as a Final Agency Order this 9th day of June, 2008.


for W. Michael Sullivan, Ph.D., Director
Department of Environmental Management
235 Promenade Street, 4th Floor
Providence, Rhode Island 02908

CERTIFICATION

I hereby certify that I caused a true copy of the within Final Order of Dismissal to be forwarded, via regular mail, postage prepaid to: Alexander F. Aponik, 14 Pinecrest Drive, Exeter, RI 02822; via interoffice mail to Gary Powers, Esquire, DEM Office of Legal Services, 235 Promenade Street, Providence, RI 02908 on this 9th day of June, 2008.



NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Environmental Management pursuant to R.I. Gen. Laws § 42-35-12. Pursuant to R.I. Gen. Laws § 42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.